

**Affidavit accompanying Motion for  
Permission to Appeal In Forma Pauperis**

United States District Court for the STATE of Delaware

James W. Riley

v.

Thomas Carroll, et al.,

D.C. Case No. 04 - 1435 GMS

Third Cir. No. 07 - 3012

**Affidavit in Support of Motion**

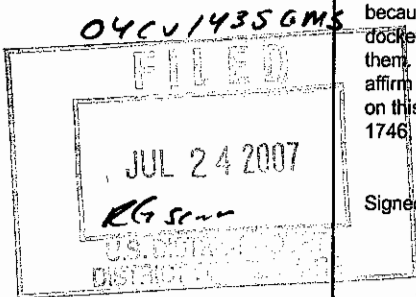
I swear or affirm under penalty of perjury that, because of my poverty, I cannot prepay the docket fees of my appeal or post a bond for them. I believe I am entitled to redress. I swear or affirm under penalty of perjury that my answers on this form are true and correct. (28 U.S.C. § 1746; 18 U.S.C. § 1621)

Signed: James Riley

**Instructions**

Complete all questions on this application and then sign it. Do not leave any blanks. If the answer to a question is "0," "none," or "not applicable (N/A)," write in that response. If you need more space to answer a question or to explain your answer, attach a separate piece of paper identified with your name, your case's docket number, and the question number.

Date: July 16, 2007



My issues on Appeal are: The Delaware District Court improperly denied appellant James Riley habeas relief without conducting the constitutionally required ex parte inquiry into trial counsel's accusations of client's perjury which violated Riley's 6th Amendment right to conflict-free counsel.

Whether or not the district court's ruling that the Delaware State Courts do not have to conduct ex parte proceedings before the trial Judge whenever a trial counsel accuse his client of perjury to determine whether counsel in fact possess knowledge beyond a reasonable doubt violate the ABA's prevailing norms of practice as adopted by all state and federal courts in the United States?

1. For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

INCOME SOURCE	AVERAGE MONTHLY AMOUNT DURING THE PAST 12 MONTHS	AMOUNT EXPECTED NEXT MONTH
	You	You
Employment	\$ <u>NONE</u>	\$ <u>NONE</u>
Self-Employment	\$ <u>NONE</u>	\$ <u>NONE</u>
Income from real property (such as rental income)	\$ <u>NONE</u>	\$ <u>NONE</u>
Interest and Dividends	\$ <u>NONE</u>	\$ <u>NONE</u>
Gifts	\$ <u>NONE</u>	\$ <u>NONE</u>
Alimony	\$ <u>NONE</u>	\$ <u>NONE</u>
Child Support	\$ <u>NONE</u>	\$ <u>NONE</u>
Retirement (such as social security, pensions, annuities, insurance)	\$ <u>NONE</u>	\$ <u>NONE</u>
Unemployment payments	\$ <u>NONE</u>	\$ <u>NONE</u>
Disability (such as social security, insurance payments)	\$ <u>NONE</u>	\$ <u>NONE</u>
Public Assistance (such as welfare)	\$ <u>NONE</u>	\$ <u>NONE</u>
Other (specify): <u>NONE</u>	\$ <u>NONE</u>	\$ <u>NONE</u>
<b>Total monthly income</b>	\$ <u>NONE</u>	\$ <u>NONE</u>

2. List your employment history, most recent employer first. (Gross monthly pay is before taxes or other deductions.

Employer	Address	Dates of Employment	Gross Monthly Pay
<u>none</u>	<u>none</u>	<u>none</u>	<u>none</u>
<u>none</u>	<u>none</u>	<u>none</u>	<u>none</u>
<u>none</u>	<u>none</u>	<u>none</u>	<u>none</u>

3. List your spouse's employment history, most recent employer first. (Gross monthly pay is before taxes or other deductions.

Employer	Address	Dates of Employment	Gross Monthly Pay
<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>
<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>
<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>

4. How much cash do you and your spouse have? \$ none

Below, state any money you or spouse have in bank accounts or in any other financial institution.

Financial Institution	Type of Account	Amount you have	Amount your spouse has
<u>none</u>	<u>none</u>	\$ <u>none</u>	\$ <u>none</u>
<u>none</u>	<u>none</u>	\$ <u>none</u>	\$ <u>none</u>
<u>none</u>	<u>none</u>	\$ <u>none</u>	\$ <u>none</u>

If you are a prisoner, you must attach a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months in your institutional accounts. If you have multiple accounts, perhaps because you have been in multiple institutions, attach one certified statement for each account.

5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings.

Home (Value)	Other real estate (Value)	Motor Vehicle # 1 (Value)
<u>none</u>	<u>none</u>	Make & year: <u>none</u>
<u>none</u>	<u>none</u>	<u>none</u>
<u>none</u>	<u>none</u>	Model: <u>none</u>
		Registration #: <u>none</u>
Motor Vehicle # 2 (Value)	Other assets (Value)	Other assets (Value)
	<u>none</u>	<u>none</u>
Make & year: <u>none</u>		
Model: <u>none</u>		
Registration #: <u>none</u>		

6. State every person, business or organization owing you or your spouse money, and the amount owed.

Person owing you or your spouse money	Amount owed to you	Amount owed to your spouse
<u>none</u>	<u>none</u>	<u>none</u>

7. State the persons who rely on you or your spouse for support.

Name	Relationship	Age
<u>none</u>	<u>none</u>	<u>none</u>

8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate.

	You	Your Spouse
Rent or Home Mortgage (Include lot rented for mobile home)	\$ <u>none</u>	\$ <u>n/a</u>
Are real estate taxes included?		
• yes      • no		
Is property insurance included?		
• yes      • no		
Utilities (electricity, heating fuel, water, sewer, and telephone)	\$ <u>none</u>	\$ <u>n/a</u>
Home maintenance (repairs and upkeep)	\$ <u>none</u>	\$ <u>n/a</u>
Food	\$ <u>none</u>	\$ <u>n/a</u>
Clothing	\$ <u>none</u>	\$ <u>n/a</u>
Laundry and dry-cleaning	\$ <u>none</u>	\$ <u>n/a</u>
Medical and dental expenses	\$ <u>none</u>	\$ <u>n/a</u>
Transportation (not including motor vehicle payments)	\$ <u>none</u>	\$ <u>n/a</u>
Recreation, entertainment, newspapers, magazines, etc.	\$ <u>none</u>	\$ <u>n/a</u>
Insurance (not deducted from wages or included in mortgage payments)	\$ <u>none</u>	\$ <u>n/a</u>
Homeowners or renters	\$ <u>none</u>	\$ <u>n/a</u>
Life	\$ <u>none</u>	\$ <u>n/a</u>
Health	\$ <u>none</u>	\$ <u>n/a</u>
Motor Vehicle	\$ <u>none</u>	\$ <u>n/a</u>
Other: <u>none</u>	\$ <u>none</u>	\$ <u>n/a</u>
Taxes (not deducted from wages or included in mortgage payments)(specify): <u>none</u>	\$ <u>none</u>	\$ <u>n/a</u>

	You	Your Spouse
Installment payments	\$ <u>none</u>	\$ <u>n/a</u>
Credit Card (name): <u>none</u>	\$ <u>none</u>	\$ <u>n/a</u>
Department Store (name): <u>none</u>	\$ <u>none</u>	\$ <u>n/a</u>
Other: <u>none</u>	\$ <u>none</u>	\$ <u>n/a</u>
Alimony, maintenance and support paid to others	\$ <u>none</u>	\$ <u>n/a</u>
Regular expenses for operation of business or farm (attach detailed statement)	\$ <u>none</u>	\$ <u>n/a</u>
Other (specify): <u>none</u>	\$ <u>none</u>	\$ <u>n/a</u>
<b>Total monthly expenses:</b>	\$ <u>none</u>	\$ <u>n/a</u>

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?

• Yes    ☒ No    If yes, describe on an attached sheet.

10. Have you paid n/a Or will you be paying n/a an attorney any money for services in connection with this case, including the completion of this form?

• Yes    ☒ No    If yes, how much? \$ n/a

If yes state the attorney's name, address and telephone number:

n/a  
n/a  
n/a

11. Have you paid n/a Or will you be paying n/a anyone other than attorney (such as a paralegal or typist) any money for services in connection with this case, including the completion of this form?

• Yes • ☒ No If yes, how much? \$ none

If yes state the person's name, address and telephone number:

n/a  
n/a  
n/a

12. Provide any other information that will help explain why you cannot pay the docket fees for your appeal.

I'm incarcerated and I don't have any source of income. And I'm in debt to the institution for over \$ 300<sup>00</sup>

13. State the address of your legal residence.

Delaware Correction Center, 1181 Paddock Road  
Smymna, Delaware 19977

Your daytime telephone number: ( ) none

Your age: 46 Your years of Schooling: 10th grade

Your social security number: 162-52-9731

James Riley  
Signature of Prisoner

Date July 16, 2007

(Rev. 10/96)



UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUITNo. 07-7012**ADDENDUM TO AFFIDAVIT IN SUPPORT OF MOTION  
TO PROCEED IN FORMA PAUPERIS**

**Notice to Litigant:** The Prison Litigation Reform Act of 1995, effective April 26, 1996, has made significant changes to the in forma pauperis statute, 28 U.S.C. § 1915. The statute no longer provides for waiver of court filing or docketing fees for prisoners who are granted leave to proceed in forma pauperis. This applies to original proceedings and appeals from decisions in civil actions or proceedings. Once a prisoner has been granted leave to proceed in forma pauperis, the prisoner is obligated to pay the entire filing and/or docketing fee in the manner prescribed by statute, regardless of the outcome of the proceeding or appeal.

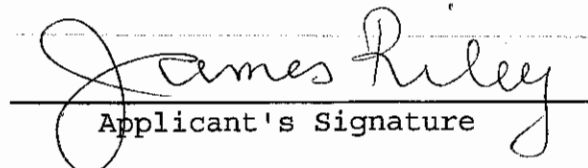
Prisoners proceeding in forma pauperis are now required to pay an initial partial filing fee, and thereafter periodic payments will be made from the prisoner's institutional account until the entire fee has been paid. 28 U.S.C. §1915 (b)(1). If a prisoner does not have sufficient funds to pay the initial partial fee, the prisoner will not be prohibited from proceeding. Once there are sufficient funds in the prisoner's account, however, funds will be collected in the manner prescribed by the statute until the entire fee has been paid. 28 U.S.C. §1915 (b)(4). The obligation to pay the fees and any subsequent costs continues even if the prisoner is transferred or released from custody.

Therefore, you should consider carefully whether you wish to go forward with an appeal or proceeding before you submit an affidavit in support of motion to proceed in forma pauperis to this Court.

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The Act has amended § 1915 to require that you submit an affidavit in support of motion to proceed in forma pauperis that includes a statement listing all of your assets. 28 U.S.C. § 1915(a)(1). Therefore, when completing the attached affidavit, you must include a complete listing of your assets. You also must complete the following certification:

I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that I have the sum of \$000 in my prison account at (name of institution in which your are confined) Delaware Correctional Center.

  
Applicant's Signature

IM James Riley  
SBI# 165916 UNIT MNU, Bldg. 22  
DELAWARE CORRECTIONAL CENTER  
1181 PADDOCK ROAD  
SMYRNA, DELAWARE 19977

Clerk's Office  
U.S. District Court  
844 King Street  
Wilmington, Delaware

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